

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION

Group Art Unit: 1634

MÖCKEL et al.

Examiner: J. SWITZER

Appln. No.: 09/813,919

Filed: March 22, 2001



Title: NUCLEOTIDE SEQUENCES CODING FOR THE dapC GENE AND PROCESS FOR THE PRODUCTION OF L-LYSINE

July 22, 2003

* * * * *

**SUBSTITUTE DECLARATION OF BIOLOGICAL DEPOSIT
IN COMPLIANCE WITH THE BUDAPEST TREATY**

Hon. Commissioner for Patents

Washington, D.C. 20231

Sir:

I, Thomas A. Cawley, Jr., hereby state as follows:

1. I am an attorney of record for the above-identified patent application, and as such I am authorized to act on behalf of Degussa AG, the assignee of the application.

2. Degussa AG is the assignee of the above-identified patent application as evidenced by an assignment from the inventors that was recorded in the United States Patent and Trademark Office on June 20, 2001, at Reel No. 011915, Frame No. 0356.

3. *Corynebacterium glutamicum* strain DSM 5715/pXT-dapCexp was deposited with the Deutsche Sammlung von Mikroorganismen und Zellkulturen GmbH (DSM) under the terms of the Budapest Treaty on January 20, 2000, and assigned accession no. DSM 13254.

4. DSM is a depository in accordance with the Budapest Treaty for the above-deposited cultures. Should the cells mutate, become non-viable, non-functional, or be inadvertently destroyed, the assignee will replace such cells for at least thirty years from the date of the original deposit, or for at least five years from the date of the most recent request for release of a sample, or for the enforceable life of any patent issued on the above-identified application, whichever period is longest.

5. The deposits have been made under conditions of assurance of (a) ready accessibility thereto by the public if an enforceable patent is granted whereby all restrictions to the availability to the public of the cell lines so deposited will be irrevocably removed upon the granting of the patent, and (b) access to the cell lines will be available during

pendency of the patent application to one determined by the Commissioner of Patents and Trademarks to be entitled thereto under applicable statutes and regulations.

6. All statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Degussa AG

By



Thomas A. Cawley, Jr., Ph.D.

Reg. No. 40,944

Attorney for Applicants

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FOR UTILITY/DÉSIGN
CIP/PCT NATIONAL/PLANT
ORIGINAL/SUBSTITUTE/SUPPLEMENTAL
DECLARATIONS

RULE 63 (37 C.F.R. 1.03)
DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

FORM

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the **INVENTION ENTITLED NUCLEOTIDE SEQUENCES CODING FOR THE DAPC GENE AND PROCESS FOR THE PRODUCTION OF L-LYSINE**

the specification of which (CHECK applicable BOX(ES))

X A. ☐ is attached hereto.
BOX(ES) → B. ☒ was filed on March 22, 2001 as U.S. Application No. 09 / 813,919
→ C. ☐ was filed as PCT International Application No. PCT/ / on /

JUL 22 2003

and (if applicable to U.S. or PCT application) was amended on /

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment, and I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56. Except as noted below, I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT International Application which designated at least one other country than the United States, listed below and have also identified below any foreign application for patent or inventor's certificate, or PCT International Application, filed by me or my assignee disclosing the subject matter claimed in this application and having a filing date (1) before that of the application on which priority is claimed, or (2) if no priority claimed, before the filing date of this application:

PRIOR FOREIGN APPLICATION(S)

Number	Country	Day/MONTH/Year Filed	Date first laid-open or Published	Date Patented or Granted	Priority NOT Claimed
100 14 546.9	GERMANY	23 March 2000			

If more prior foreign applications, X box at bottom and continue on attached page.

Except as noted below, I hereby claim domestic priority benefit under 35 U.S.C. 119(e) or 120 and/or 365(c) of the indicated United States applications listed below and PCT International applications listed above or below and, if this is a continuation-in-part (CIP) application, insofar as the subject matter disclosed and claimed in this application is in addition to that disclosed in such prior applications, I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56 which became available between the filing date of each such prior application and the national or PCT International filing date of this application:

PRIOR U.S. PROVISIONAL, NONPROVISIONAL AND/OR PCT APPLICATION(S)

Application No. (series code/serial no.)	Day/MONTH/Year Filed	Status	Priority NOT Claimed
		pending, abandoned, patented	

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

And I hereby appoint Pillsbury Winthrop LLP, Intellectual Property Group, telephone number (202) 861-3000 (to whom all communications are to be directed), and persons of that firm who are associated with USPTO Customer No. 909 (see below label) individually and collectively my attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith and with the resulting patent, and I hereby authorize them to delete from that Customer No. names of persons no longer with their firm, to add new persons of their firm to that Customer No., and to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct the above firm and/or an attorney of that firm in writing to the contrary.



00909

(1) INVENTOR'S SIGNATURE:

Date: 05-24-2003

Name	Bettina	MIDDLE
First	Middle Initial	Family Name
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(2) INVENTOR'S SIGNATURE:

Date:

Name	Anke	WEISSENBORN
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☒ FOR ADDITIONAL INVENTORS see attached page.

☐ See additional foreign priorities on attached page (incorporated herein by reference).

Atty. Dkt. No. P 0277862
(M#)

FOR UTILITY/DESIGN
CIP/PCT NATIONAL/PLANT
ORIGINAL/SUBSTITUTE/SUPPLEMENTAL
DECLARATIONSRULE 63 (37 C.F.R. 1.55)
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FOR PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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and (if applicable to U.S. or PCT application) was amended on

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PRIOR FOREIGN APPLICATION(S)

Number	Country	Day/MONTH/Year Filed	Date first Laid-open or Published	Date Patented or Granted	Priority NOT Claimed
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PRIOR U.S. PROVISIONAL, NONPROVISIONAL AND/OR PCT APPLICATION(S)

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And I hereby appoint Pillsbury Winthrop LLP, Intellectual Property Group, telephone number (202) 861-3000 (to whom all communications are to be directed), and persons of that firm who are associated with USPTO Customer No. 909 (see below label) individually and collectively my attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith and with the resulting patent, and I hereby authorize them to delete from that Customer No. names of persons no longer with their firm, to add new persons of their firm to that Customer No., and to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct the above firm and/or an attorney of that firm in writing to the contrary.



00909

(1) INVENTOR'S SIGNATURE:

Date:

Name	Bettina	MIDDLE	
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(2) INVENTOR'S SIGNATURE:

Date: 5/23/03

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Mailing Address	Falkenweg 66, D-72076 Tübingen, GERMANY		
(include Zip Code)			

☒ FOR ADDITIONAL INVENTORS see attached page.☐ See additional foreign priorities on attached page (incorporated herein by reference).

Atty. Dkt. No. P 0277862

(M#)

DECLARATION AND POWER OF ATTORNEY

(continued)

ADDITIONAL INVENTORS:

(3) INVENTOR'S SIGNATURE: X

Date: X 05/26/2003

Walter		PFEFFERLE	
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(6) INVENTOR'S SIGNATURE:

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(7) INVENTOR'S SIGNATURE:

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First	Middle Initial	Family Name	
Residence			
City	State/Foreign Country		Country of Citizenship
Mailing Address			
(include Zip Code)			

(8) INVENTOR'S SIGNATURE:

Date:

First	Middle Initial	Family Name	
Residence			
City	State/Foreign Country		Country of Citizenship
Mailing Address			
(include Zip Code)			

(9) INVENTOR'S SIGNATURE:

Date:

First	Middle Initial	Family Name	
Residence			
City	State/Foreign Country		Country of Citizenship
Mailing Address			
(include Zip Code)			

DECLARATION AND POWER OF ATTORNEY

(continued)

ADDITIONAL INVENTORS:

(3) INVENTOR'S SIGNATURE:

Date:

Walter		PFEFFERLE	
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Residence	Halle (Westf.)	GERMANY	GERMANY
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Mailing Address	Jahnstrasse 33, D-33790 Halle (Westf.), GERMANY		
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(5) INVENTOR'S SIGNATURE: X

Date: X 05/26/2003

Jörn		KALINOWSKI	
First	Middle Initial	Family Name	
Residence	Bielefeld	GERMANY	GERMANY
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Mailing Address	Lenbachstrasse 19, D-33615 Bielefeld, GERMANY		
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(6) INVENTOR'S SIGNATURE: X

Date: X 05/26/2003

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(include Zip Code)			

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